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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,228	01/27/2004	Jeffrey Arthur Nelson	16663-US	1766
30689	7590	08/10/2006	EXAMINER TORRES, ALICIA M	
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			ART UNIT 3671	
DATE MAILED: 08/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,228	Applicant(s) NELSON ET AL.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deiss 2,732,941 in view of Kreienbaum 3,722,802.
3. Regarding claims 1-4, Deiss discloses a spreader for a movable cleaning shoe (19). The spreader comprises a panel having an inner edge (42) and an outer edge (41). The inner edge (42) has a mounting assembly, and the outer edge (41) inherently has a weight. The panels (41) have an inherent flexibility and resilience due to the nature of the material from which they are constructed, as per claim 1; and

Wherein the cleaning shoe (19) reciprocates and shakes, as per claims 2 and 3; and

The panels (41) extend downstream at an acute angle, as per claim 4.

However, Deiss fails to disclose an attached weight on the outer edge that causes the panel to flap back and forth.

Kreienbaum discloses an agricultural spreader and teaches that the spreaders may be modified by a fitting additional weights to the spreader tools.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the spreader weights of Kreienbaum on the spreaders of Deiss in order to shift the center of gravity to improve the effect of centrifugal force.

4. Claims 5, 11, 12, 15-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deiss in view of Hagerer 4,875,889 and Kreienbaum.

5. Regarding claims 5, 11, 12, 15, Deiss discloses a cleaning shoe for an agricultural harvesting machine. The cleaning shoe has a movable reciprocating frame (19) with sidewalls (20) and a chaffer sieve (17) supported on the frame. The spreaders have panels having an inner edge (42) having a mounting assembly, and the outer edge (41) inherently has a weight. The spreaders (41) are flexible and resilient and are mounted to and extend from the sidewalls (20). The spreaders (41) resiliently move back and forth and can do so during movement of the frame, as per claim 5.

Deiss fails to disclose the sieve having longitudinally extending dividers located between and parallel to the sidewalls and affixed to a top surface thereof and an attached weight on the outer edge that causes the panel to flap back and forth.

Hagerer teaches that it is known in the art to provide a sieve with longitudinally extending dividers (34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sieve of Deiss with the longitudinally extending dividers as taught by Hagerer in order to further prevent lateral movement of crop material when the harvesting machine is operating on a slope.

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Kreienbaum discloses an agricultural spreader and teaches that the spreaders may be modified by a fitting additional weights to the spreader tools.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the spreader weights of Kreienbaum on the spreaders of Deiss in order to shift the center of gravity to improve the effect of centrifugal force.

6. Claims 13, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deiss, Hagerer and Kreienbaum as applied to claims 5 and 11 above, and further in view of Balthes 3,731,475.

The device is disclosed as applied above. However, Deiss and Hagerer and Kreienbaum fail to disclose wherein the panels are rubber. Balthes discloses a similar device wherein the panels (44) are made of rubber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rubber panels of Balthes on the device of Deiss and Hagerer and Kreienbaum in order to provide flexibility.

Response to Arguments

7. The applicant argues that the panels of Deiss are not flexibly resilient like those of the invention. However, the panels of Deiss, as previously explained, have a natural flexibility to them. The applicant has failed to specifically provide an amount of flexibility that the panels should have in the specification, *and more importantly*, the applicant has failed to show the panels flexing in the drawings. If the panels of the invention flex invisibly to the naked eye, then

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Deiss's naturally flexible panels should read on the applicant's invention since it is unclear how the panels of the invention flex more than those of Deiss.

Additionally, the applicant seems to be arguing more than claimed. If the claims read so that the panels bend back and forth along their length due to movement of the shoe, then the applicant's arguments would be more in line with the claims. However, this "bending" that the applicant is arguing is not shown in the drawings or described in the specification.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
August 4, 2006